

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

MARCELLUS SMITH,
Plaintiff,

vs.

JOHN DOE, *et al.*,
Defendants.

Case No. 1:14-cv-948

Beckwith, J.
Litkovitz, M.J.

ORDER

This matter is before the Court on plaintiff's motion to compel (Doc. 15).

Pursuant to Fed. R. Civ. P. 37, motions to compel discovery must include a certification that extrajudicial attempts have been made to secure responses to discovery requests. Rule 37(a)(1) provides:

On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.

Fed. R. Civ. P. 37(a)(1). Similarly, Local Rule 37.1 provides that motions relating to discovery "shall not be filed in this Court, under any provision in Fed. R. Civ. P. 26 or 37 unless counsel have first exhausted among themselves all extrajudicial means for resolving the differences." S.D. Ohio Civ. R. 37.1

Here, there is no indication from plaintiff's motion that he attempted to resolve the purported discovery dispute prior to the filing of the motion. Before plaintiff may file any motions in this Court seeking to compel discovery, he must contact counsel for defendants in an attempt to resolve the disputed discovery items. Plaintiff must make at least one good faith attempt to resolve discovery disputes with defendants' counsel (such

as writing a letter to defendants' counsel) after he fails to receive an initial response to his discovery requests. Plaintiff must also submit with any motion to compel discovery an affidavit setting forth "the extrajudicial means which have been attempted to resolve differences." *See* S.D. Ohio Civ. R. 37.2. Because Plaintiff has failed to do so in this case, his motion to compel discovery (Doc. 15) is **DENIED**.

IT IS SO ORDERED.

Date: 3/26/15

Karen L. Litkovitz
Karen L. Litkovitz
United States Magistrate Judge